IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Application No.184 of 2007
With
Civil Application No.185 of 2007
In
Second Appeal No.416 of 1989

SmtPushpa Harakchand Bhandari
since deceased through her husband
Shri Harakchand J. Bhandari Applicant

Vs.

Shri Gopal Bansilal (Bhoir) Pardeshi
since deceased, through his LRs
Smt. Leelabai Dilip Pardeshi & anr. Respondents

Mr.N.P.Deshpande for applicant
Mr.V.S.Gokhale for respondents

CORAM: B.H.MARLAPALLE, J.

April 17, 2007.

P.C.

. Second Appeal No.416 of 1989 was dismissed in default on 28/7/2003. Civil Application No.184 of 2007 has been filed for its restoration and it is beyond time by 3 years and 114 days. Civil Application No.185 of 2007 has been filed praying for condonation of delay in filing the restoration application.

. However, it is noticed that the second appeal has been filed by the original plaintiff in Civil Suit No.1273 of 1974 and the said suit was dismissed

by the 3rd Jt. Civil Judge Junior Division at Pune on 14/10/1983. The plaintiff, therefore, went in appeal before the District Court at Pune by filing Civil Appeal No.213 of 1984 and the same was dismissed on 7/7/1988.

. Both these applications are disposed and there is no necessity to restore the second appeal when the appellant-plaintiff has remedy of filing a fresh suit for fresh cause of action and such a suit could be decided on its own merits.

(B.H.MARL